

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**HAROLD ATENCIO,**

Plaintiff,

v.

**1:23-cv-00331-JMR-GJF**

**SAM BREGMAN, in his official capacity  
as the District Attorney of the  
Second Judicial District,**

Defendant.

**DEFENDANT BREGMAN’S NOTICE OF NON-INTENT TO PROSECUTE**

**COMES NOW**, Defendant Sam Bregman, in his official capacity as the District Attorney of the Second Judicial District (*hereinafter* “Defendant”), through his attorneys Robles, Rael & Anaya, P.C. (Taylor S. Rahn), and hereby gives notice of the following:

1. The Attorney General of the State of New Mexico is charged providing his opinion on matters of law. See NMSA 1978 § 8-5-2.

2. On July 10, 2023, the Attorney General submitted its position on the constitutionality of statute at issue in this matter, NMSA 1978, Section 32A-4-33(D) (2022). See **(Doc. No. 22)**.

3. Specifically, the Attorney General stated: “[I]f the Court concludes that Section 32A-4-33(D) applies to non-identifying information and non-anonymized records or information in CYFD records, the State’s position is that the statute is subject to strict scrutiny and, to the extent the statute reaches non-identifying and non-anonymized information, cannot survive strict scrutiny according to the holding in *Peck*.” See id., pp. 4-5.

4. Additionally, the Attorney General provided notice that the State has no other interest in these proceedings and did not seek permission to formally intervene. See id., p. 5.

5. Based upon the Attorney General's opinion that the statute may be read in a way that does not survive constitutional scrutiny, Defendant Bregman gives notice that he does not intend to prosecute any individuals for violation of NMSA 1978, Section 32A-4-33(D) in his capacity as the District Attorney of the Second Judicial District.

Respectfully submitted,

**ROBLES, RAEL & ANAYA, P.C.**

By: /s/ Taylor S. Rahn  
Taylor S. Rahn  
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I hereby certify that on this 20<sup>th</sup> day of September 2023, the foregoing was electronically served through the CM/ECF system to all counsel of record.

/s/ Taylor S. Rahn  
Taylor S. Rahn